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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

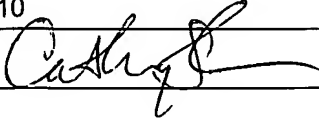
Docket Number (Optional)

944-003.187

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on April 19, 2010

Signature



Typed or printed name Cathy Sturmer

Application Number

10/668,105

Filed

September 22, 2003

First Named Inventor

Mikko VIRTÄ

Art Unit

3624

Examiner

J. Cardenas NAVIA

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)☒ attorney or agent of record.  
Registration number 58,051☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34



Signature

Keith R. Obert

Typed or printed name

203-261-1234

Telephone number

April 19, 2010

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No. 944-003.187  
Serial No. 10/668,105

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re application of

**Mikko Virta**

Confirmation No. **7632**

Serial No. **10/668,105**

Examiner: **J. Cardenas Navia**

Filed: **September 22, 2003**

Group Art Unit: **3624**

For: **DYNAMIC CALENDAR RESERVATION**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

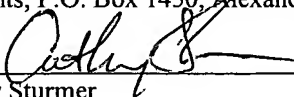
In response to the final Office Action of January 22, 2010, please reconsider the rejections in view of the following remarks:

**\*\*\*If any fee and/or extension is required in addition to any enclosed herewith, please charge Account No. 23-0442.**

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CERTIFICATE OF MAILING

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Cathy Sturmer

Dated: 4.19.10

REMARKS

Claims 1, 3-24 and 27-32 were examined by the Office, and in the final Office Action of January 22, 2010 all claims are rejected. With this response, no claims are amended, added or cancelled. Applicant respectfully submits that the Office has committed clear error in rejecting the claims, since the Office has fails to show that the cited references disclose or suggest all of the limitations recited in the claims. Accordingly, applicant respectfully requests reconsideration and withdrawal of the rejections in view of the following discussion.

This response is submitted along with a Notice of Appeal.

**Claim Rejections Under § 103**

In section 4, on page 3 of the Office Action, claims 1, 3-24 and 27-32 are rejected under 35 U.S.C. § 103(a) as unpatentable over Dean et al. (U.S. Patent No. 6,167,379) in view of Barto et al. (U.S. Patent No. 7,069,097). Applicant respectfully submits that claim 1 is not disclosed or suggested by the cited references, because the cited references fail to disclose or suggest all of the limitations recited in claim 1. The cited references, alone or in combination, at least fail to disclose or suggest that the at least one respective interval of time is a fixed interval of time, as recited in claim 1.

The instant application defines an amount of time that can be scheduled dynamically within a time interval during a working day. The amount of time is of fixed length but it is not fixed to a certain time of the day. The calendar ensures that it is scheduled somewhere within the hours that are defined by a user. However, the Office states on page 2 of the Office Action that in most uses of applicant's invention the "at least one respective interval of time" is not a "fixed interval of time." Page 5, lines 7-10 of the applicant's specification states that the time limits can be either allowed percentages of the whole time, or required free time within the whole time stated in hours and/or minutes. For example, a simple technique is to use percentages if the time does not need to be continuous, but to use absolute time (i.e. hours and/or minutes) if the time must be continuous. At least this section of the specification provides support for the limitation "wherein the at least one respective interval of time is a fixed interval of time," in addition support can also be found from Figure 1 and page 4, lines 22-29. Therefore, as long as the specification provides proper support for the limitation it is irrelevant whether some embodiments of the invention do not require a fixed interval of time. Applicant respectfully

notes that while the claims are interpreted in view of the specification, it is improper to import limitations from the specification into the claims.

The Office acknowledges on page 4 of the Office Action that Dean does not disclose storing in the electronic schedule apparatus at least one respective interval of time during which the at least one amount of the personal time is to be reserved, and that each of the at least one amount of personal time is less than the respective interval of time, and relies upon Barto for this teaching. Barto relates to automated scheduling of processes within a semi-conductor processing plant (col. 1, lines 22-36; col. 2, lines 4-19), and thus is in a totally different field. Barto describes a complex algorithm and a complex bidding system whereby "consumer" present requests through software agents to access particular shared resources (see col. 8, line 57 to col. 9, line 24). Many factors are taken into account when bids are assessed (col. 8, line 65 - col. 9, line 2), and a selection process is then carried out (figs. 6A and 6B; col. 18, line 23 onwards).

The Office asserts that the kernel discussed in Barto corresponds to the personal time, and the working window corresponds to the interval of time. However, claim 1 recites that the at least one respective interval of time is a fixed interval of time. Barto states that the provider software agent may shift the edges of the working window such that it is smaller than the commitment window. See Barto column 9, lines 33-35. Therefore, the working window in Barto cannot correspond to the interval of time recited in claim 1, because the interval of time in claim 1 is not flexible and cannot be shifted like the working window can be in Barto. Claim 1 specifically states "at least one amount of personal time during which no booking by others are allowed."

In contrast to claim 1, Barto teaches how to coordinate bookings make by others so that there is enough time to finish each task before starting the next one. Barto does not disclose or suggest how to leave personal time that is just for the user (or in Barto, for the provider), and is not necessarily aimed for completing a certain task. In Barto, the working window is never smaller than the kernel, a time period representing the actual time required by the provider to complete the task. See Barto column 9, lines 25-37. However, the "at least one respective interval of time" recited in claim 1 can be less than the "at least one amount of personal time," which the Office asserts corresponds to the "kernel" in Barto. The present application states that the time limits can be either allowed percentages of the whole time, or required free time within the whole time stated in hours and/or minutes. See page 5, lines 7-10. Therefore, it is clear that

the one respective interval of time can be less than the amount of personal time, and therefore the “working window” is not the equivalent to “at least one respective interval of time.” For at least this reason, claim 1 is not disclosed or suggested by the cited references.

In addition, Barto is in a different field of endeavor, and one of ordinary skill in the art would not be motivated to rely upon Barto. Barto is directed to automated manufacturing environments, such as semiconductor manufacturing, and more particularly, to a method and apparatus for reducing scheduling conflicts for a resource. The field of invention for the present application is calendars and in particular electronic calendar systems. One of skill in the art of developing electronic calendars for people to use in their daily lives would not turn to the field of automated manufacturing equipment, and therefore would not rely upon Barto for the teachings asserted by the Office. Therefore, for at least these reasons, claim 1 is not disclosed or suggested by the cited references.

Independent claims 17-18, 23 and 27 are amended to include limitations similar to those recited in claim 1, and therefore are not disclosed or suggested by the cited references for at least the reasons discussed above with respect to claim 1.


The dependent claims rejected above are not disclosed or suggested by the cited references at least in view of their dependencies.

CONCLUSION

For at least the foregoing reasons, applicant respectfully submits that the present application is in condition for allowance, and such action is earnestly solicited. The undersigned hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

Date: 19 April 2010

  
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